

DFEH News Brief

Date: August 18, 2009
For Immediate Release

Contact: Annmarie Billotti
916-478-7247
annmarie.billotti@dfeh.ca.ov

STATE ORDERS LOS ANGELES TAQUERIA OWNER TO PAY \$46,645.00 FOR FIRING NEW MOM WHO USED BREAK TIME TO BREASTFEED HER BABY

ELK GROVE, CA -- The California Department of Fair Employment and Housing (DFEH) today announced that the owner of Acosta Tacos, Jesus Acosta, has been ordered to pay \$46,645.00 in damages in a workplace pregnancy discrimination case that was prosecuted by the DFEH before the Fair Employment and Housing Commission (Commission).

After a two-day hearing, the Commission, in a precedential decision, found that Acosta Tacos' termination of Marina Chavez because she insisted on her right to return to work, and her right to nurse her baby, violated the Fair Employment and Housing Act's (FEHA) prohibition against sex discrimination.

"Ms. Chavez suffered an egregious violation of her civil rights that is not tolerated in California," said DFEH Director, Phyllis Cheng. "The FEHA guarantees an employee who takes pregnancy disability leave the right to return to her former position when the leave ends. It is unconscionable that a working mother should be penalized for needing to feed her newborn baby, and the law ensures that her rights are protected."

Working as a cashier for Acosta Tacos since 2004, Chavez learned she was pregnant in October 2006 and began her pregnancy disability leave on April 30, 2007 due to premature labor. On May 30, 2007, Chavez attempted to return to work, but Jaime Acosta told her she could not because her job had been filled. On June 1 and then again on June 2, Chavez was called into work to cover a shift for an absent employee. Upon learning on June 2 that Chavez had nursed her baby in her car during her break the preceding night, Jaime Acosta told Chavez he did not want her working as long as she was breastfeeding -- a fact he admitted at the Commission's hearing. When Chavez protested that she needed her job back immediately to support her family, Acosta told her he did not like her attitude, could no longer use her, and fired her.

Finding the employer liable for sex discrimination, retaliation, and failure to prevent discrimination, the Commission ordered Jesus Acosta to pay Marina Chavez \$21,645.00 in lost wages plus \$20,000.00 to compensate her for her emotional suffering. The Commission also ordered Acosta to pay the state's General Fund a \$5,000.00 administrative fine; develop a written policy, printed in English and Spanish, prohibiting sex and pregnancy discrimination in the workplace; train all employees and

supervisors on the policy; and post a notice stating that the Commission found the company violated the FEHA and ordered it to pay damages.

The Commission is an agency of the state of California that adjudicates complaints prosecuted by the DFEH and issues regulations interpreting the FEHA. For more information about the Commission, visit www.fehc.ca.gov.

The DFEH is the state agency charged with enforcing California's civil rights laws. The mission of the DFEH is to protect the people of California from unlawful discrimination in employment, housing and public accommodations and from hate violence. For more information, visit the Department's Web site at www.dfeh.ca.gov.

###